

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARIO CACHO FIGUEROA,

Defendant.

No. CR02-38Z

ORDER ON LIMITED REMAND

This matter comes before the Court as a result of a LIMITED REMAND Order of the Ninth Circuit Court of Appeals¹, pursuant to United States v. Ameline, 409 F.3d 1073 (9th Cir. 2005) (en banc). In accord with the limited remand procedures adopted in United States v. Ameline, the Court must determine whether the Court's sentencing decision "would have been materially different had the Judge been aware that the Guidelines were advisory." Ameline, 409 F.3d at 1079. The Court permitted the parties to file supplemental pleadings and to advance sentencing arguments previously barred or deemed "not ordinarily relevant" pursuant to United States v. Booker, 530 U.S. 220 (2005). See Order, docket no. 53.

On May 9, 2003, this Court sentenced Defendant Mario Cacho Figueroa to one hundred fifty-one (151) months custody and five (5) years supervised release as a result of his convictions for conspiracy, bank fraud, mail fraud, and wire fraud. See Judgment,

¹Order of Feb. 11, 2005 in Ninth Circuit Case No. 03-30155, docket no. 52.

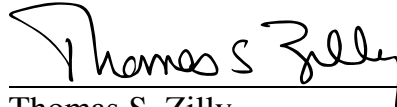
1 docket no. 197. This sentence was at the top of the applicable Guideline range. The Court
2 has reviewed all supplemental pleadings and the sentencing factors considered by the Court
3 prior to the original sentencing. Based on this review, the Court finds that the Court's
4 sentencing decision would not have been materially different had the Court known the
5 Sentencing Guidelines were advisory. The Court continues to believe that the sentence
6 imposed is appropriate under all the circumstances.

7 Accordingly, no further hearing is required in this case.

8 The Clerk is directed to close this case.

9 IT IS SO ORDERED.

10 DATED this 21st day of February, 2006.

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14 Thomas S. Zilly
15 United States District Judge
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